



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE **108th** CONGRESS, SECOND SESSION

Vol. 150

Washington, Wednesday, January 21, 2004

No. 2

House of Representatives

Remarks of the Honorable William D. Delahunt of Massachusetts Addressing the Recent “Reform” of the Medicare System

Mr. Speaker, I rise today to address the consequences of the Medicare legislation signed into law in December of last year. I must express my profound disappointment with the outcome of a process that originally promised so much hope. Throughout 2003, there was bipartisan enthusiasm and genuine momentum for change that would safeguard the Medicare system and ensure affordable prescription drugs for every American. It seemed as if we might finally make some real progress. Sadly, the Congress – under relentless pressure from the White House and the pharmaceutical industry – squandered the opportunity of a generation.

Some have characterized the new law as “better than nothing.” Nothing could be further from the truth. This was bad legislation, enacted in an underhanded manner. It is extremely expensive, but does little to actually bring down out-of-pocket consumer costs. The consensus for reform was shredded in favor of a complicated system designed by lobbyists for the pharmaceutical industry.

Only a handful of Congressional Members even saw the final 700-page document, made available barely an hour before floor debate. Although the bill was initially defeated after the normal 15-minute voting period, the Speaker simply refused to gavel the vote to a close. After more than three excruciating hours – the longest vote ever in the history of the US Congress – he finally closed the vote only after enough arms were twisted to change the outcome. Even then, at 6:00 am that Saturday in November, the bill passed by only five votes. And with the bill now law, the strongest defense from proponents seems to be: “Don’t worry, no one has to sign up, it’s all voluntary.”

That’s hardly reassuring for millions of seniors in urgent need.

Because this “reform” does far more to inflate the federal budget than to help senior citizens or the Medicare program, I voted against it. There is so much wrong with this package that it’s hard to know where to begin.

First, it doesn’t offer much real prescription drug coverage. To enroll in the new Part D coverage, you must pay an estimated \$35 monthly premium – and still meet an annual \$250 deductible. Up to \$2,200, you also pay 25 percent of the drug costs. After that, you face a coverage gap (the infamous “doughnut hole”) where you pay 100 percent until costs reach \$5,044. In other words, older and disabled people will have to spend nearly \$4000 for the first \$5000 of annual coverage – paying nearly 80 percent of their prescription drug costs to get any substantial benefit at all. And, these are only first-year estimates; the out-of-pocket cost is expected to rise every year thereafter.

Incredibly, however, if you participate in the new prescription drug benefit, you will not be permitted to buy any kind of supplemental insurance (like Medigap) to cover your share of the costs. Medicare will cover only drugs on a list of preferred “formulary” medicines; and drugs purchased outside the list will not be counted toward your deductible.

On top of all that, the new benefit doesn’t even take effect until the year 2006, more than two years away. This fact was scarcely mentioned by the bill’s proponents during the congressional debate. Seniors need help now, not cynical and uncertain promises for later.

In the meantime, the interim discount cards paraded by the Administration promise only small savings for the consumer—if you can figure out how they work. *It's not clear who will offer the cards, what the discounts will be, when and for how long the cards will be available. These decisions will be driven by – believe it or not – the self-interest of pharmaceutical companies and other business entities.* The potential card issuers are not required to pass along any resulting savings to consumers. Once enrolled, you must stay with the card for at least a year, even if the issuer stops discounting the medication you need.

It gets worse. This bill does not remotely pretend to address the fundamental issue: the crushing cost of prescription medication. Rather than leveraging the enormous buying power of millions of Medicare recipients, the new law actually bars market competition. And, let's be clear, this legislation was authored by partisans who swear by the catechism of the free market. *As enacted, the bill explicitly prohibits Medicare from negotiating with the pharmaceutical industry for better prices and deeper discounts.* We know negotiated discounts can work. When the VA negotiates on behalf of this country's veterans, their drug prices drop significantly. It is mind-boggling that 40 million seniors are being deprived – by law – of the same leverage.

Moreover, the bill blocks re-importation of US-produced drugs from other countries at lower prices. It claims to allow Canadian imports, but only if the Food and Drug Administration formally certifies their safety, which is unlikely to ever happen. The FDA has already stubbornly resisted re-importation, forcing local Councils on Aging and dozens of cities and states to take matters into their own hands – although there is not a single documented case of injury resulting from US-produced drugs that have been re-imported from Canada.

In fairness, the bill postponed a scheduled 4.5 percent cut in physician reimbursement for Medicare services – easing fears of a wholesale abandonment of Medicare patients. The legislation will ensure physicians receive a three percent increase in payments over the next two years. However, this is not nearly enough to protect Medicare beneficiaries' access to quality health care providers. And, the bill actually complicates problems that oncologists face in getting adequate reimbursement for crucial cancer drugs and obstacles confronting patients who need access to inpatient rehabilitation facilities.

Despite the coverage limits and other shortfalls, the cost of the legislation is spectacular – projected by the nonpartisan Congressional Budget Office to exceed \$2 trillion over ten years. At the same time, homeland security and recent tax cuts have already forced dramatic increases in the federal deficit, now almost \$400 billion. That is a shocking number, especially when you consider that just three years ago, the budget was boasting a healthy surplus.

Moreover, many fear this new law could lead down a dangerous road toward privatization of Medicare and even Social Security. We saw a similar experiment fail dramatically with Medicare+Choice several years ago, when HMOs and other providers dropped out of the system as soon as costs escalated – leaving seniors to fend for themselves. This new law poses similar risks.

It breaks my heart that the Congress could not achieve real Medicare reform that addressed prescription drug costs. As I look back on my four House terms, very few votes stand out as genuinely historic in consequence. Along with presidential impeachment and the Iraq war resolution, the vote on this bill is such a watershed moment. The White House achieved this “victory” by deluding seniors about the impending relief – in the process, jeopardizing hope of genuine reform in the foreseeable future.

As the House reconvenes, I will resume my work with colleagues on both sides of the partisan aisle to address problems with the new law. Older Americans have raised their voices effectively in the legislative arena before. In 1989, a deeply flawed catastrophic benefits bill was repealed. Almost a decade ago, we struggled successfully to restore Medicare cuts that savaged home health care locally and across the nation. This time, we can expect a steep uphill battle. In his State of the Union address this week, the President vowed to veto any amendments to the new Medicare law. To amend even the most egregious provisions of this bill will require every ounce of outrage we can collectively muster. As co-chair of the Older Americans Caucus, a bipartisan group of colleagues focused on issues of particular significance to seniors, please count on my continued and vigorous commitment. I am already working with key House colleagues on specific legislation to repeal the new law's barriers to drug re-importation and negotiated discounts.